

APPENDIX

Relevant Circuit Court Caselaw

CIRCUIT COURT	CASE
First Circuit	<i>Goodman v. Bowdoin Coll.</i> , 380 F.3d 33, 44 n.18 (1st Cir. 2004) (a section 1981 plaintiff must show that “he had been subjected to intentional discrimination and that this discrimination was a substantial or <i>motivating factor</i> for the defendants’ actions” (emphasis added))
Second Circuit	<i>Henry v. Wyeth Pharm., Inc.</i> , 616 F.3d 134, 154 (2d Cir. 2010) (“[T]he verdict sheet directed the jury to the correct question – whether [plaintiff] had ‘proved by a preponderance of the credible evidence that his race or color was a <i>motivating factor</i> in’ certain employment actions.” (emphasis added))
Third Circuit	<i>Anderson v. Wachovia Mortg. Corp.</i> , 621 F.3d 261, 269 (3d Cir. 2010) (it is plaintiff’s burden to show that discrimination “was, more likely than not, a <i>motivating factor</i> ” in the adverse contracting decision (emphasis added))

App. 2

Fourth Circuit	<i>Swaso v. Onslow Cty. Bd. of Educ.</i> , 698 F. App'x 745, 747 (4th Cir. 2017) (a section 1981 plaintiff may establish liability by demonstrating that race was a <i>motivating factor</i> in the adverse employment action)
Fifth Circuit	<i>Odubela v. Exxon Mobil Corp.</i> , 736 F. App'x 437, 443-44 (5th Cir. 2018) (a section 1981 plaintiff may establish liability by proving that “his termination was <i>motivated</i> by racial discrimination” (emphasis added))
Sixth Circuit	<i>Bobo v. United Parcel Serv., Inc.</i> , 665 F.3d 741, 757 (6th Cir. 2012) (reversing summary judgment on plaintiff’s section 1981 claim, holding that a “reasonable jury could logically infer that [plaintiff’s] race was a <i>motivating factor</i> in the discharge decision” (emphasis added))
Seventh Circuit	<i>Killebrew v. St. Vincent Health, Inc.</i> , 295 F. App'x 808, 810 (7th Cir. 2008) (a section 1981 plaintiff must establish race “was the <i>motivating factor</i> behind the ill-treatment” (emphasis added))

App. 3

Eighth Circuit	<i>Wright v. St. Vincent Health Sys.</i> , 730 F.3d 732, 739 (8th Cir. 2013) (a section 1981 plaintiff can show discrimination by proving that race was a <i>motivating factor</i> behind the defendant’s conduct)
Ninth Circuit	<i>Metoyer v. Chassman</i> , 504 F.3d 919, 930-31 (9th Cir. 2007) (a section 1981 plaintiff can meet her prima facie burden by showing that race was a <i>motivating factor</i>)
Tenth Circuit	<i>Payan v. United Parcel Serv.</i> , 905 F.3d 1162, 1168 (10th Cir. 2018) (status-based discrimination suits brought under section 1981 are analyzed under burden-shifting frameworks under Title VII) ¹
Eleventh Circuit	<i>Vinson v. Koch Foods of Ala., LLC</i> , 735 F. App’x 978, 981-82 (11th Cir. 2018) (reversing summary judgment, holding that plaintiff had submitted evidence showing that race “was a <i>motivating factor</i> in the decision to terminate her” (emphasis added))

¹ “Mixed-motive” claims are among the claims analyzed under Title VII burden-shifting frameworks. *E.g.*, *Metoyer*, 504 F.3d at 930-31.

App. 4

D.C. Circuit	<i>DeJesus v. WP Co. LLC</i> , 841 F.3d 527, 536 (D.C. Cir. 2016) (the central question presented by plaintiff’s section 1981 claims was, were the “employment decisions <i>motivated</i> by race?” (emphasis added))
Federal Circuit	<i>Ruiz v. A.B. Chance Co.</i> , 234 F.3d 654, 671 (Fed. Cir. 2000) (applying a Title VII burden-shifting framework to claims brought under section 1981)

